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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,894	09/22/2000	Larry Scheinberg	11847-002001	1229
26161	7590 03/24/2006		EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022			HAVAN, THU THAO	
MINNEAPOLIS, MN 55440-1022			ART UNIT	PAPER NUMBER
	,		3624	
•			DATE MAILED: 03/24/2006	

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Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)		
	09/667,894		SCHEINBERG ET AL.	
Office Action Summary	Examiner	Art Unit		
	Thu Thao Havan	3624		
The MAILING DATE of this communication ap	opears on the cover sheet with th	ne correspondence ad	ddress	
A SHORTENED STATUTORY PERIOD FOR REPI WHICHEVER IS LONGER, FROM THE MAILING I - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the maili earned patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICAT .136(a). In no event, however, may a reply but will apply and will expire SIX (6) MONTHS to te, cause the application to become ABANDO	ION. be timely filed from the mailing date of this of the control of the contro		
Status .				
Responsive to communication(s) filed on 18 capillation. This action is FINAL . 2b) ☑ This action is FINAL . Since this application is in condition for allowed closed in accordance with the practice under	is action is non-final. ance except for formal matters,		e merits is	
Disposition of Claims				
4) ☐ Claim(s) 1-12,14 and 16-24 is/are pending in 4a) Of the above claim(s) is/are withdra 5) ☐ Claim(s) is/are allowed. 6) ☐ Claim(s) 1-12,14 and 16-24 is/are rejected. 7) ☐ Claim(s) is/are objected to. 8) ☐ Claim(s) are subject to restriction and/ Application Papers 9) ☐ The specification is objected to by the Examin 10) ☐ The drawing(s) filed on is/are: a) ☐ ac	awn from consideration. or election requirement. ner. cepted or b) objected to by the			
Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the E	ction is required if the drawing(s) is	objected to. See 37 C		
Priority under 35 U.S.C. § 119				
12) Acknowledgment is made of a claim for foreig a) All b) Some * c) None of: 1. Certified copies of the priority documer 2. Certified copies of the priority documer 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	nts have been received. Ints have been received in Applic Ority documents have been received au (PCT Rule 17.2(a)).	cation No eived in this National	l Stage	
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08	4) Interview Summ Paper No(s)/Ma			

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Detailed Action

Response to Amendment

Claims 1-12, 14, and 16-24 are pending. This action is in response to the RCE received January 18, 2006.

Response to Arguments

The rejection of claims 1-12, 14, and 16-24 under 35 U.S.C. 102(b) as being unpatentable over Mosler et al (US 6,304,858) is maintained.

Applicant's arguments filed January 18, 2006 and February 11, 2005 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

- A.) Examiner notices that the remarks of January 18, 2006 are the same remarks Applicant previously discussed on February 11, 2005. Thus, Examiner already addressed the remarks on the previous office action of July 14, 2005. Again, the responses are as followed.
- B.) In response to applicant's argument that the references fail to show an asset based margin protocol of applicant's invention, it is noted that the features upon which applicant relies (i.e., an asset based margin protocol) are just an "or" limitation for determining that a position calls for either a cash based margin protocol "or" an asset based margin protocol. As applicant admitted in page 7 of amendment of February 11, 2005, Mosler is directed solely to a method using a cash based margin protocol. Thus,

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Mosler only needs to meet one protocol to overcome the claim since only one protocol or the other protocol is required.

C.) Applicant alleges that the prior art made of record fails to teach determining that a position calls for either a cash based margin protocol or an asset based margin protocol. The examiner disagrees with applicant's representative since Mosler teaches determining that a position calls for either a cash based margin protocol or an asset based margin protocol (col. 4, lines 46-61, col. 12, lines 1-29, col. 30, lines 43-52). In other words, Mosler teaches determining that a position calls for either a cash based margin protocol when he discloses determining the model price of the cash settled contract at the close of trading in accordance with the pricing model (i.e. Protocol).

C.) Re claims 21-24, Mosler teaches an instruction as claimed in claims 1, 12, and 20. Therefore the rationale applied in the rejection of claims 1, 12, and 20 applies herein.

With regards to the claims rejected as anticipated over Mosler, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Mosler anticipated the claimed limitations.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-12, 14, and 16-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Mosler et al. (US 6,304,858).

Re claims 1, 12, and 20, Mosler teaches a method of clearing transactions on an electronic exchange comprises;

performing a settlement run after cessation of trading (<u>fig. 5a (element S54 and S56)</u>);

automatically marking-to-market all open positions (col. 9, lines 19-38); determining whether an open position calls for a cash based margin protocol or an asset based margin protocol (col. 12, lines 1-19; col. 30, lines 43-52); and determining margin requirements for the open position according to the determined margin protocol (col. 21, lines 55-60; col. 30, lines 43-52).

Re claims **2** and **14**, Mosler teaches sending to subscribers or subscriber depository or guaranteeing bnnks debits and/or credits and updating the resulting balances in each subscriber's account (col. 4, lines 46-61; fig. 5a).

Re claims **3**, **16**, and **21**, Mosler teaches disseminating position information but no daily pays or collects will take place so long as sufficient assets are already identified (col. 12, lines 1-19; col. 21, lines 55-60; col. 30, lines 43-52).

Re claims **4, 17,** and **22**, Mosler teaches posting a position for a subscriber to a subscriber trading account as soon as any portion of an order is filled (<u>col. 9, line 59 to col. 10, line 18</u>).

Re claims **5**, **18**, and **23**, Mosler teaches determining whether the subscriber his a position at the other side of the market that can result in an offset of the position and the position at the other side of the market (col. 1, lines 37-49).

Re claims **6**, **19**, and **24**, Mosler teaches liquidating the trade with any resulting credit or debit identified as a realized gain or loss in the subscriber's trading account (<u>fig. 5a</u>). Re claim **7**, Mosler teaches recording assets that are delivered to the exchange for satisfying margin (<u>col. 12</u>, <u>lines 1-19</u>; <u>col. 21</u>, <u>lines 55-60</u>; <u>col. 30</u>, <u>lines 43-52</u>).

Re claim 8, Mosler teaches determining an equivalent asset value to reflect a capital charge applied to special classes of assets (<u>abstract</u>).

Re claim **9**, Mosler teaches maintaining an asset inventory for each trading account, and indicating whether assets in the trading account are limited to covering a single contract genus or a specific delivery commitment, or can be applied to multiple products (col. 4, lines 25-38).

Re claim **10**, Mosler teaches determining an initial margin for each contract species held in a subscriber's trading account (<u>col. 21</u>, <u>lines 55-60</u>; <u>col. 30</u>, <u>lines 43-52</u>).

Re claim 11, Mosler teaches determining a variation margin and applying the variation margin to the subscriber's trading account (col. 12, lines 1-19).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on (571) 272-6747. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct-uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH 3/16/2006

HANI M. KAZIMI PRIMARY EXAMINER